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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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60533	7590	01/28/2008		
TOLER LAW GROUP 8500 BLUFFSTONE COVE SUITE A201 AUSTIN, TX 78759			EXAMINER RAMAKRISHNAIAH, MELUR	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 01/28/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/604,701	PEARSON ET AL.	
	Examiner	Art Unit	
	Melur Ramakrishnaiah	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-14, 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 4-5, 7-11, 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starr et al. (US PAT: 5,535,264, hereinafter Starr) in view of Link, II, et al. (US PAT: 7,266,184, filed 12-14-2000, hereinafter Link).

Regarding claim 1, Starr discloses a method for communicating information to a caller on a telephone network, the method comprising the steps of: (a) generating a signal for producing an audible dial tone, (b) transmitting the signal to the receiver of a telephone (11, fig. 1), when the caller initially takes the receiver off-hook, to thereby produce an audible dial tone (fig. 1, col. 4, lines 40-42), (c) superimposing an audible information message over the audible dial tone while the audible dial tone is produced (fig. 3, col. 5 lines 38-57).

Starr differs from claim 1 in that he does not specifically teach: the audio dial tone is recognized by a wait for dial tone modem so that wait for dial tone modem can commence dialing.

However, Link discloses securely sending notification of new incoming email message by way of a public network which teaches the following: the audio dial tone is

recognized by a wait for dial tone modem so that wait for dial tone modem can commence dialing (figs. 1-2, col. 7, line 62 – col. 8, line 4).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Starr's system to provide for the following: the audio dial tone is recognized by a wait for dial tone modem so that wait for dial tone modem can commence dialing as this arrangement would facilitate for modem desired dial tone to start dialing to connect to a remote server to obtain information as taught by Link, thus facilitate user to automatically obtaining information such as waiting email messages.

Regarding claims 2, 4-5, 7-11, 16, 18, Starr further teaches the following: caller is a human being or a modem, signal suitable for producing an audible dial tone is an oscillating electrical signal, step (a) is accomplished with a dial tone generator comprising an oscillator circuit (this is implicit in as much as reference teaches sending a dial tone, col. 4 lines 40-42, and further Dial tone is a signal (350+440 Hz) from local telephone company that it is alive and ready to receive the number you dial: Source: Newton's Telecom Dictionary), transmitting signal is at least partially accomplished with at least one transmission means selected from a group consisting of a local loop (26, fig. 1), a trunk (19, fig. 1) etc (see fig. 1), superimposing is at least partially accomplished with an electronic circuit (38, figs. 1-2) having memory (not shown) storing the audible information message in a digital format, superimposing is executed and repeated intermittently (col. 5 lines 47-57), audible information message includes human-intelligible words (col. 5 lines 47-57), at least one of generating, transmitting,

and superimposing is executed at a public local exchange (see fig. 1), generating the signal only after the caller initially takes the receiver off-hook (fig. 3, col. 5 lines 38-57).

3. Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of Link as applied to claim 1 above, and further in view of Kung et al. (US PAT: 6,633,635, filed 12-30-1999, hereinafter Kung).

The combination differs from claims 3, 6, in that although he teaches PSTN network and analog telephone as shown in fig. 1; he does not teach the following: voice over internet protocol telephone network, an integrated services digital network compatible network, or a private telephone network, a digital telephone set, VOIP telephone set, or a proprietary telephone set.

However, Kung discloses multiple call waiting in a packetized communication system which teaches the following: voice over internet protocol telephone network, an integrated services digital network compatible network, or a private telephone network, a digital telephone set, VOIP telephone set, or a proprietary telephone set (fig. 1, col. 3 lines 43-67, col. 4 lines 1-7).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: voice over internet protocol telephone network, an integrated services digital network compatible network, or a private telephone network, a digital telephone set, VOIP telephone set, or a proprietary telephone set as this arrangement would facilitate to implement service under multiple communication types as taught by Kung, thus providing versatility of the system.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of Link as applied to claim 1 above, and further in view of Epps (US PAT: 5,034,947).

Regarding claim 12, the combination does not teach the following: audible information message has characteristic of being whisper-like.

However, Epps discloses whisper circuit for a conference call bridge including talker nulling and method therefor which teaches the following: audible information message has characteristic of being whisper-like (col. 2 lines 3-24).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: audible information message has characteristic of being whisper-like as this arrangement would provide one of the ways, among many possible ways, to exchange information as taught by Epps.

5. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of Link as applied to claim 1 above, and further in view of Lawser et al. (US PAT: 6,157,709, hereinafter Lawser).

Regarding claims 13-14, the combination does not teach the following: audible information message is branding-type message that identifies provider of local telephone service, audible information message includes symbolic sounds serving to identify a provider of local telephone service.

However, Lawser discloses method and apparatus for branding delivered calls which teaches the following: audible information message is branding-type message that identifies provider of local telephone service, audible information message includes symbolic sounds serving to identify a provider of local telephone service (col. 3 lines 39-51).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: audible information message is branding-type message that identifies provider of local telephone service, audible information message includes symbolic sounds serving to identify a provider of local telephone service as this arrangement would facilitate providing useful information to the communication users in deregulated communication industry as taught by Lawser (col. 1 lines 24-31).

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of Link as applied to claim 1 above, and further in view of Hanai et al. (JP406284204A, hereinafter Hanai).

The combination differs from claim 17 in that it does not specifically teach: telephone set is an Integrated Service digital Network telephone set.

However, Hanai discloses Electronic exchange which teaches the following: telephone set is an Integrated Service digital Network telephone set (fig. 1, see abstract).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify the combination to provide for the following: telephone set is an Integrated Service digital Network telephone set as this arrangement would facilitate the user to use an ISDN telephone network to obtain audio message of Starr's system.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Starr in view of Gross et al. (US PAT: 6,389,117, hereinafter Gross) and Lawser.

Regarding claim 19, Starr discloses a method for communicating information to a caller on a telephone network, the method comprising the steps of: (a) generating a signal for producing an audible dial tone, (b) transmitting the signal to the receiver of a telephone (11, fig. 1), when the caller initially takes the receiver off-hook, to thereby produce an audible dial tone (fig. 1, col. 4, lines 40-42), (c) superimposing an audible information message over the audible dial tone while the audible dial tone is produced (fig. 3, col. 5 lines 38-57).

Starr differs from claim 19 in that he does not specifically teach: the audible information message has the characteristic of being whisper-like such that the audible dial tone is louder than the audible information message and wherein audible information message is a branding type message that identifies a provider of a local telephone service.

However, Gross teaches the following: the audible information message has the characteristic of being whisper-like such that the audible tone is louder than the audible

information message (col. 16 lines 54-63) and Lawser teaches the following: audible information message is a branding type message that identifies a provider of a local telephone service (col. 3 lines 39-51).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Starr's system to provide for the following: : the audible information message has the characteristic of being whisper-like such that the audible dial tone is louder than the audible information message as this arrangement would provide one of the ways, among many possible ways, to obtain information as taught by Gross; and wherein message is a branding message-type message that identifies provider of local telephone service as this arrangement would facilitate providing useful information to the communication users in deregulated communication industry as taught by Lawser (col. 1 lines 24-31).

8. Claims 15 and 20 are allowed.

Response to Arguments

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Melur Ramakrishnaiah
Primary Examiner